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## “INTELLECTUAL PROPERTY RIGHTS AND DIGITAL PIRACY IN INDIA”

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### **ABSTRACT:**

This research paper investigates the issue of intellectual property rights (IPR) and digital piracy in India. The rapid advancement of technology and the prevalence of the internet have amplified concerns regarding digital piracy among content creators and copyright holders. The study examines the current status of IPR laws in India, encompassing aspects such as copyright, patents, trademarks, and designs. It evaluates the challenges posed by digital piracy and its impact on various sectors including music, film, software, and publishing. Additionally, it explores the initiatives undertaken by Indian authorities to combat digital piracy through legal measures and enforcement actions. The research also explores potential solutions to effectively address this problem while striking a balance between safeguarding IPRs and promoting innovation in India's digital domain. By exploring the intricacies surrounding intellectual property rights and digital piracy in India, this research aims to enhance understanding of this issue and provide valuable insights for policymakers, industry stakeholders, and researchers grappling with similar challenges globally.

### **INTRODUCTION:**

The Intellectual Property Rights (IPR) are the legal rights that are conferred as an exclusive right, to the creator or the inventor to protect his invention or creation for a period. Originally, only patents, copyrights, and trademarks of industrial design were protected under the IPR but, now it has a much wider meaning. IPR enhances technological advancement as it's a mechanism for handling piracy, unauthorized use, and infringement.

It gives protection to the trade secrets and undisclosed information which, are important factors in the industries and the R & D institutions. Drugs and Pharmaceuticals are the match that requires a strong IP system as inventing new drugs comes with all associated risks at the developmental stage. Here, competition is driven by scientific knowledge concepts rather than manufacturing know-how.

Intellectual Property Rights are non-fundamental Human Rights that, are open to state interference to fulfil the obligations of Human Rights. The evolution of the IPR consists of all statutorily recognized rights. The globalization of Intellectual Property Rights has triggered the debate on the evaluation of the relationship between them and Human Rights.

According to the IPR, traditional knowledge is a huge part of the public regime/domain since they don't meet the criteria for protection and security or private ownership. The holders or owners/creators of the IPR have the ensured monopoly, on the usage of their item, property, or research, for a specified amount of time. The IP empowers enterprises, individuals, or other institutes, to exclude others from having the right or using their name without permission, with their creations/innovations. Thus, it gives the investors, a reasonable reason to return their investment, in the field of research and development. It encourages the disclosure, publication, and distribution of innovative creators, to open their discovery or creation to the public rather than keeping it a secret<sup>1</sup>.

### **Meaning of Intellectual Property:**

Intellectual property pertains to the creative and imaginative output of an individual, granting them the rights to oversee the utilization of their creations. These rights can be traded, sold, exchanged, or licensed to other individuals or organizations by the intellectual property holder. Unlike tangible artistic, dramatic, or musical works that may arise from it, intellectual property is intangible. For instance, a book is a tangible property that can change hands without affecting the intellectual property, such as copyright, held by the creator. Legal protection for intellectual property is provided through intellectual property law, which encompasses six primary categories: copyright, patents, designs, trademarks, circuit layouts, and new plant varieties. Additionally, the scope of intellectual property law includes safeguarding confidential information, upholding the duty of fidelity, protecting trade secrets, ensuring confidentiality, and preserving moral rights.

### **TYPES OF INTELLECTUAL PROPERTY:**

Various forms of intellectual property encompass a range of intangibles, and several common types are outlined below.

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<sup>1</sup> History and Evolution of IPR, available at <https://legaldesire.com/history-and-evolution-of-ipr/> (last visited on 15/11/2023)

1. Patents: A patent is a proprietary right granted by a government agency, such as the U.S. Patent and Trademark Office, providing exclusive rights to inventors. This can cover designs, processes, improvements, or physical inventions, like machines. Technology and software companies often secure patents for their innovations; for instance, a patent for a personal computer was filed in 1980 by Steve Jobs and colleagues at Apple.
2. Copyrights: Copyrights grant authors and creators exclusive rights to use, copy, or duplicate their original material. This applies to various works, including books and music. Authors and artists can authorize others through licensing agreements to use their work.
3. Trademarks: A trademark, such as a symbol or phrase, distinguishes and legally separates a product from others. It is exclusively owned by a company and is often associated with the company's brand. For instance, the Coca-Cola Company owns the trademark for its logo and brand name.
4. Franchises: A franchise is a license allowing a franchisee (individual or party) to use a franchisor's name, trademark, knowledge, and processes. This business model involves a small business owner operating under the company's name, paying start-up and ongoing licensing fees. Companies like UPS and McDonald's operate under this model.
5. Trade Secrets: Trade secrets are confidential processes or practices that provide economic benefits to a company. These are not public information and include designs, patterns, recipes, or proprietary processes. Active protection and non-disclosure agreements are common in safeguarding trade secrets.
6. Digital Assets: Digital assets, recognized as intellectual property, encompass proprietary software code, algorithms, and online digital content. As the digital landscape evolves, the importance of protecting these assets continues to grow.<sup>2</sup>

### **Historical Background:**

As we delve into history, we note the initial endeavor to establish Intellectual Property (IP) Rights in Venetian Law around 1474<sup>3</sup>, also recognized as English Law. This pioneering effort involved the declaration of rights through patents. The expansion of trade and its methodologies over time underscored the escalating requirement for instituting and safeguarding intellectual property rights, ultimately leading to the formal establishment of such rights through legal frameworks. Vienna hosted an event known as the WORLD EXHIBITION,

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<sup>2</sup> Types of Intellectual Property , available at - <https://www.investopedia.com/terms/i/intellectualproperty.asp#citation-3> (last visited on 15/11/2023)

<sup>3</sup> Venetian Law 1474

which marked one of the first international gatherings focused on educational, knowledge, and cultural exchange. This event played a key role in raising awareness among nations of the need for intellectual property (IP) rights, eventually leading to the establishment of the PARIS CONVENTION in 1883.<sup>4</sup> Many people view the Paris Convention as a standard for global intellectual property rights, emphasizing the importance of international cooperation in safeguarding intellectual property. Additionally, in 1886, the Berne Convention of Literary and Artistic Rights was established by nations to extend intellectual property rights and international protection to creators. This marks a significant change from the previous scenario, in which creators' rights were limited to their respective countries, highlighting the global recognition of the need for higher standards.

The TRIPS Agreement, signed by WTO countries on 15 April 1994, in Marrakesh Morocco, established a set of minimum standards on intellectual property (IP)<sup>5</sup>. This Agreement describes national procedures and methods for resolving disputes relating to intellectual property rights. In essence, the TRIPS Agreement covers all forms of intellectual property, aiming to establish comprehensive and robust standards of protection and effective enforcement domestically and internationally. It deals with the application of the general principles of GATT and the provisions of international agreements on intellectual property in Part I. In addition, it sets standards on the scope, use, and availability (Part II), enforcement of rights (Part III), and acquisition and maintenance (Part IV) of intellectual property rights. The agreement also covers dispute prevention and resolution mechanisms in Part V. Formal arrangements, including transitional and institutional arrangements, are set out in Parts VI and VII of the agreement respectively.

#### **DEVELOPMENT OF IPR IN INDIA:**

The development of intellectual property rights (IPR) in India began with the enactment of the Trades and Merchandise Act in 1958, which was initially characterized by being limited in scope. However, subsequent judicial decisions have expanded its scope. This law was eventually replaced by the Trademarks Act of 1999. The liberalization of the Indian economy has had a profound impact on intellectual property rights because of the increase in international trade and industrial development. Industry has highlighted the urgent need to

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<sup>4</sup> Yash Jain, 'IPR Law- History' (Legal Service India)

<sup>5</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights 1995

protect rights against all infringements. Over time, laws such as the Copyright Act, Patent Act, Designs Act, and GI Bill were periodically implemented. The Government of India (GOI) and the judiciary have played a pivotal role in expanding the scope of these important laws and provisions to adapt to the changing times. For example, at the inception of the Goods and Trade Act of 1958, trademarks were initially limited to goods and services. However, with the advent of web-based commerce platforms such as Amazon and Yahoo, courts have expanded the scope of trademarks to include domain names. This legal precedent acted as a guide and was later incorporated into the Trade Mark Act 1999, which specifically deals with issues relating to counterfeiting.

### **RISE OF DIGITAL PIRACY IN INDIA:**

The rise in digital piracy in India during the second wave of COVID-19, which has increased since the pandemic began in 2019, has led to significant financial losses for those original content creation, up to 5x their revenue from legal displays, according to a senior official at consulting firm EY India. The migration of curated content from cinema to OTT platforms, coupled with the proliferation of new technology, has continued to fuel digital piracy, especially as these platforms often carry affiliated costs. Mukul Shrivastava, the legal and integrity services partner at EY India, notes that the second wave has exacerbated the problem as more people watch content at home, taking advantage of Advanced technological infrastructure for various imaging options. He pointed out that the current situation could be even worse than the first wave, as people have become accustomed to accessing a variety of content on OTT platforms and are increasingly looking for alternatives free of charge. In today's landscape, methods of piracy of video content include sharing passwords and usernames, sharing files on the Internet and social networks, and purchasing illegal streaming boxes. Furthermore, the global cost of piracy Streaming piracy is expected to reach \$52 billion that same year. Shrivastava explained that the increase in digital piracy is due to restrictions caused by the pandemic, which led to the closure of theatres and other public entertainment venues. As a result, individuals are increasingly turning to content available on mobile devices, mainly phones, for entertainment, thereby contributing to increased viewership, which is already a growing trend in India even before the pandemic<sup>6</sup>.

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<sup>6</sup> <https://www.thehindubusinessline.com/info-tech/as-digital-piracy-rises-amid-pandemic-original-content-creators-losing-money-ey/article34743362.ece> last visited on 15/11/2023

**DIGITAL PIRACY – DEFINITION AND TYPES:**

**Introduction:** Digital piracy involves the unauthorized reduplication, downloading, copying, and sharing of digital products such as music, video games, e-books, movies, or software without permission of the creator, thus violating copyright law. Accessing or hacking these products, especially if they are not highly sought after, is often very simple. Examining the historical origins of digital piracy, Ingram (2014) points out that it emerged with the rise of computer hacking. Originally a hobby for computer enthusiasts in the 1970s, the activity gradually changed as its advocates believed that everyone should be able to access and share in the world's benefits. As a result, they began producing hard copies of digital works, turning what was once a hobby into an illegal industry.

**Defining Piracy:** Piracy is characterized by the unauthorized utilization of someone else's work, encompassing both its literal and conceptual definitions, which refer to "the unauthorized use of another's production, invention, or conception, especially in the infringement of copyright." The unauthorized reproduction of a person's creation constitutes a breach of their copyright.

**Types of Digital Piracy**

Numerous websites provide unauthorized access to copyrighted materials such as movies, music, TV shows, games, and software.

I. Streaming Sites: These platforms enable users to view copyrighted content without the need for downloading. Some host the content directly, while others provide links to it. Both hosting and linking to pirated content are illegal.

II. Cyber-lockers: These are online storage services that allow users to upload or download files. Platforms like "Megaupload.com" (closed in 2012) once facilitated such activities, and many forums share links to these cyber-lockers.

III. Peer-to-peer (P2P): P2P networks connect computers for file sharing. While some digital content shared on P2P networks is legal, pirated content is frequently circulated. Due to the numerous users, P2P networks can rapidly disseminate a significant amount of pirated content, with users engaging in both downloading and uploading.

IV. Torrent Sites: Users contribute content to torrent sites, often supported by donations. Search engines like "Pirate Bay" then provide links to these uploaded files<sup>7</sup>.

Further, the other forms of piracy are as follows:

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<sup>7</sup> <https://medium.com/@bytescare/digital-piracy-and-intellectual-property-protection-52df4bc6a3d3>

- **SOFTWARE PIRACY:** Software piracy involves the unauthorized acquisition, copying, duplication, and distribution of software without the appropriate license or authorization. In the modern technological landscape, software piracy is on the rise. A significant number of software products now adhere to a strict single-user licensing policy, allowing legal acquisition and use by one person. Any form of distribution, whether sharing with friends or posting on the Internet, is considered illegal.
- **MUSIC AND VIDEO PIRACY:** The term music piracy refers to the act of reproducing and disseminating a piece of music without the permission of its owners, such as the composer or recording company that is responsible for copyright rights. In the contemporary legal landscape, it constitutes a form of copyright infringement, categorized as either a civil offense or a criminal act depending on the jurisdiction. The advent of digital technology has significantly facilitated the transmission of content over digital platforms, intensifying the issue of online music piracy. The ethical considerations surrounding the distribution and redistribution of digital content have undergone substantial transformation. Cases related to music piracy have gained paramount importance. The Indian music industry has proactively faced the threat of piracy. The Indian Music Industry (IMI) has dealt with more than 4,000 convictions under the Indian Copyright Act, of 1957, leading to fines of up to Rs 3 lakhs and imprisonment of up to three years. In addition, plea bargains were used to settle over three hundred cases, resulting in compensation of Rs. being paid up to Rs. 20,000<sup>8</sup>.
- **E-BOOK PIRACY:** E-book piracy occurs when a website or individual acquires a copy of your book and shares it on the internet, allowing people to download it for free. Nevertheless, in many instances, these entities may not possess the actual content and are merely enticing users<sup>9</sup>.

### IMPACT OF DIGITAL PIRACY ON INDUSTRIES:

Digital piracy has profound effects on various industries, influencing them in both economic and operational aspects.

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<sup>8</sup> 1Music Piracy, Available on <https://www.indianmi.org/?id=10573&t=Music%20Piracy> , last visited on 15/11/2023

<sup>9</sup> <https://kindlepreneur.com/ebook-piracy/> , last visited ON 15/11/2023



Here are some of the key impacts of digital piracy on industries:

1. **Economic Losses:** Digital piracy results in significant economic losses for industries, particularly those involved in content creation such as music, film, software, and publishing.

Illegally obtained copies of products lead to revenue loss for the creators and legitimate distributors.

2. **Market Distortion:** Piracy distorts market dynamics by creating an uneven playing field. Legitimate businesses face unfair competition from pirated versions that undercut prices, affecting market stability and the ability of legal enterprises to thrive.

3. **Innovation Deterrence:** Industries heavily reliant on intellectual property, like technology and pharmaceuticals, may experience a slowdown in innovation due to the reduced incentive for research and development caused by the threat of piracy.

### **ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS IN INDIA:**

Intellectual property rights (IPR) were introduced in India from the Western legal framework. India's first law relating to intellectual property was the Indian Trademarks and Trademarks Act, of 1884. Subsequent laws included the Indian Patents Act, of 1856, followed by the Indian Trademarks Act, of 1856. the Indian Patents and Designs Act, 1911, and the Indian Copyright Act, 1914. The Trade and Goods Marks Act, of 1958 and the Copyright Act, of 1957 replaced the earlier versions. In 1948, the Government of India set up its first committee to review existing legislation on patents and designs. In 1957, the Rajagobala Ayyangar Judicial Committee (RAC) was appointed to review the Patents Act. The 1959 commission report sought to strike a balance between constitutional guarantees of economic and social justice, as set out in the preamble to the constitution. It also describes the policy that guides India's patent system, especially regarding drug patenting.

The patent system, based on the ability to obtain exclusive rights to an invention, promotes technical progress by:

1. Encouraging research and invention.
2. Inducing inventors to disclose their discoveries.
3. Providing awards for the expenses of developing inventions.
4. Provide incentives to invest capital in new production lines that initially appear unprofitable.

Based on the recommendations of the Rajagobala Aiyengar Committee report, a Bill was introduced in 1965 and passed by the Lok Sabha. However, it lapsed in the Rajya Sabha and faced another defeat in the Lok Sabha in 1966 due to the dissolution of the Lok Sabha. The bill

was reintroduced in 1967, passed in 1970, and the draft regulations were incorporated into the Patents Act, enacted in 1971.<sup>10</sup>

### **CHALLENGES IN THE ENFORCEMENT OF IPR LAWS IN INDIA**

In India, individuals and businesses encounter numerous challenges when it comes to safeguarding their Intellectual Property Rights (IPR).

A key issue is the limited awareness and comprehension of IPR among the general public, with only 31% of the Indian population possessing a basic understanding, as per a survey by the World Intellectual Property Organization. This lack of awareness contributes to a heightened incidence of IPR infringement. Another significant challenge is the protracted and intricate legal procedures for IPR protection in India. Resolving a trademark dispute, for instance, takes an average of 5.5 years, in stark contrast to the 2-year timeline observed in developed countries. Additionally, the penalties for IPR infringement in India are perceived as inadequate, with fines ranging from Rs. 50,000 to Rs. 2 lakhs for copyright infringement and Rs. 50,000 for trademark infringement. This perceived weak deterrent has contributed to the prevalent levels of IPR infringement in the country.

Moreover, the escalating issue of counterfeiting and piracy poses a significant hurdle for IPR protection in India. The Federation of Indian Chambers of Commerce and Industry reports that the counterfeiting industry in the country is valued at approximately \$45 billion, constituting 5% of the nation's GDP.

### **CASE STUDIES:**

- Creative expressions are present in all human societies, a significant change in the current context is the increasing emphasis on protecting these expressions. For example, in 1667, John Milton sold the copyright to his legendary work, Paradise Lost, for just 10 pounds. In the past, the creative arts faced the challenge of being commercially underrepresented, largely relegated to philosophers who used writing and speech to share their wisdom without foreseeing commercial profits. Over time, awareness of human intelligence and that its creations have commercial value has

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<sup>10</sup> . [www.iprlawindia.org](http://www.iprlawindia.org)

grown. The intangible rights that protect these products and expressions are collectively known as intellectual property rights.<sup>11</sup>

- In the field of cinematographic works, piracy leads to illegal copying of films in different formats. Among the many hacking methods, Internet hacking has recently become especially popular. The rapid rise of external sites providing unauthorized content is worrying because accessing content through third-party apps does not contribute to creators' revenue and reduces revenue. The Motion Picture Distributors Association of India (MPDA) has expressed concern, pointing out that India has among the highest rates of video piracy in the world. It is estimated that the global film and streaming television industry could lose \$51.6 billion due to copyright infringement by 2022<sup>12</sup>.

### **FIGHTING ONLINE COPYRIGHT PIRACY IN INDIA: GOVERNMENT INITIATIVES AND JUDICIAL ENFORCEMENT**

Piracy not only affects the legitimate profits of copyright owners but also deals a major blow to the entire economy, leading to job losses and reduced income. The ubiquitous nature of digital media and the rise in piracy make digital piracy difficult to control, mainly because copyright owners find it difficult to identify the violator.

### **GOVERNMENT'S INITIATIVES AND POLICIES<sup>13</sup>:**

1. *National Intellectual Property Rights Policy, 2016: India's commitment to strengthening intellectual property rights (IPR) began with the launch of the National Intellectual Property Rights Policy in 2016. The policy aims to promote creativity and innovation, recognizing the economic value of intellectual property rights Objective 1 focuses on raising awareness of the benefits of intellectual property rights, including integrating intellectual property studies into school curricula. The purpose is to educate students about the importance of intellectual property rights, discouraging any inadvertent support for copyright infringement. Objective 3 calls for amendments to combat illegal film piracy. Objective 6 emphasizes public awareness and strong*

<sup>11</sup> Intellectual Property Right. (2018). In: Black's Law Dictionary, 2<sup>nd</sup> ed. [online] Available at: <http://thelawdictionary.org>

<sup>12</sup> PTI, 'Indian Film and TV Industry Threatened by Online Piracy' *The Hindu*(Mumbai, 16 December 2009)

<sup>13</sup> <https://www.mondaq.com/india/copyright/901978/combating-copyright-online-piracy-in-india-governments-initiatives-and-judicial-enforcement>

*enforcement against offline and online piracy. The policy calls for increased coordination, fact-based research, and adherence to international guidelines to effectively combat piracy, using the TRIPS definition of "piracy goods" as a basis instruction switch.*

2. ***The Cell for IPR Promotion and Management (CIPAM):*** *The National IPR Policy led to the creation of the Cell for IPR Promotion and Management (CIPAM) to promote awareness and enforce IP rights in India. CIPAM collaborates with industry stakeholders, celebrities, and organizations to combat piracy. Initiatives include anti-piracy campaigns with top celebrities, animated videos targeting children, and the creation of an IPR mascot, "IP Nani." CIPAM has suspended numerous infringing websites, conducted IP awareness programs in schools, and established IPR Cells in colleges. To strengthen enforcement, CIPAM, with FICCI, developed an IPR Enforcement Toolkit for Police, disseminated nationwide. Capacity-building campaigns and training programs for police officials and judges are part of CIPAM's efforts in collaboration with WIPO and the National Judicial Academy, India.*
3. ***Maharashtra Cyber Digital Crime Unit (MCDCU):*** *MCDCU, formed in collaboration with the cyber police and industry bodies, such as the Motion Picture Association of America, Indian Motion Pictures Producers' Association, the Producers Guild, and the Indian Music Industry (IMA), has been a pivotal force in combating piracy since its establishment in August 2017. Led by Special Inspector General of Police Brijesh Singh, MCDCU has effectively taken down over 200 major piracy websites, receiving praise from WIPO.*

### **JUDICIAL ENFORCEMENT:**

Indian courts have played a pivotal role in developing a strong intellectual property (IP) legal system in the country. Recognizing the paramount importance of the right to communicate works to the public, as enshrined in the **Copyright Act 1957**, the Act provides for civil remedies and criminal penalties to redress acts of infringement. In the fight against online piracy, Indian courts have taken strict measures, from restricting unauthorized broadcasting to issuing bans and blocking websites. With the challenge posed by the anonymous nature of online copyright infringement, identifying infringers becomes a complex task for intellectual property owners. To resolve this issue, legal recourse comes in the form of a **John Doe Order**, also known as an **Ashok Kumar Order** in India. These orders authorize courts to issue

injunctions against anonymous individuals, thereby protecting intellectual property owners. Essentially, a John Doe order is a restraining order against an individual who is not identified at the time of issuance. It allows rights holders to notify and take legal action against anyone who violates their intellectual property rights. Additionally, it gives the plaintiff the right to search the premises and seize evidence relating to the criminal conduct of the unknown defendants. To obtain a John Doe order, the applicant must establish a prima facie case, demonstrate the likelihood of irreparable harm occurring without the order, and demonstrate that the balance of convenience would favor the applicant.

A significant milestone in shaping the legal landscape for combating online piracy in India is the case of **UTV Software Communication Ltd. v 1337X.TO and Others [2019(78) PTC 375(Del)]**.<sup>14</sup>In this landmark decision, the Delhi High Court introduced the concept of "dynamic injunction," streamlining the process for rights-holders to issue blocking orders to Internet Service Providers (ISPs) without the need for a lengthy judicial order. Following this ruling, plaintiffs can approach the Joint Registrar of the Delhi High Court, an administrative position, to extend an injunction order from one blocked website to another similar "mirror/redirect/alphanumeric" website sharing the same content. Inspired by Singaporean law, the court acknowledged the need for judicial scrutiny in such matters. To implement this relief, the plaintiff must apply along with an affidavit confirming that the new website is indeed a mirror/redirect/alphanumeric version of the impugned website, supported by sufficient evidence. Once satisfied with the declaration, the Joint Registrar issues directions to ISPs to block access in India to such mirror/redirect/alphanumeric websites, in line with the previous orders. This judgment marks a significant advancement in the blocking of websites hosting infringing content, simplifying enforcement procedures for copyright owners. The implications of these directions on concrete policies and the potential notification of users about infringing content remain to be seen. Nevertheless, the evolving landscape may shift towards making content more easily accessible, benefiting the overall anti-piracy movement.

#### **FUTURE OUTLOOK: EMERGING TRENDS IN DIGITAL PIRACY**

- **AI and ML** are transformative technologies influencing Intellectual Property Rights (IPR) in India. The rise of AI-enabled machines necessitates a reevaluation of existing

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<sup>14</sup> <https://indiankanoon.org/doc/47479491/>

IP protection laws for increased stringency. Concerns are growing regarding the absence of legal mechanisms safeguarding AI-generated works, including music, art, books, and films. In India, a robust legal framework is imperative to accommodate the adoption of AI and ML, requiring the establishment of new IPR laws and frameworks to protect the creators of AI-generated content.

- **Blockchain**, another burgeoning technology, holds the potential to revolutionize the global economy. Its secure and transparent digital asset tracking capabilities could lead to innovative approaches for IPR registration. Implementing blockchain offers decentralized and transparent management, enhancing transparency and security for copyrights, patents, and trademarks in India. This adoption could streamline the IPR acquisition process, reducing both the time and costs involved.
- **The Internet of Things (IoT)** introduces unprecedented connectivity globally, linking devices like home appliances and cars, generating vast amounts of data. This connectivity will lead to creative inventions requiring protection against third-party exploitation. Although India has existing legal frameworks like the Information Technology Act addressing aspects of IoT, further legal and regulatory evaluations are necessary to establish a unified framework considering the intricate nature of protecting IPR in the IoT ecosystem<sup>15</sup>.

### **EMERGING LEGAL FRAMEWORKS IMPACTING IPR IN INDIA:**

**Draught National Artificial Intelligence Policy:** The advent of technologies like AI and ML necessitates the establishment of comprehensive policy frameworks. In India, the Draft National Artificial Intelligence Policy has been formulated to guide ethical, privacy, legal, and regulatory aspects related to the development and utilization of AI. This policy acknowledges the imperative to formulate robust IPR laws for safeguarding the creators of patentable AI algorithms. It underscores the importance of devising mechanisms to acknowledge and reward the creative endeavours of individuals and entities harnessing the potential of AI technology. According to a survey exploring IPR and emerging technologies, specific modifications have already been implemented by the Indian Patent Office in response to the evolving landscape of AI in patenting: "The Indian Patent Office has implemented comprehensive guidelines,

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<sup>15</sup> <https://www.legalserviceindia.com/legal/article-11944-the-future-of-ipr-emerging-technologies-and-legal-frameworks.html>

specifically addressing the operational mechanisms of AI platforms and the nature of AI algorithms in the application process" (Sahu and Paranjape, 2021).

**Cybersecurity Policy:** An effective cybersecurity policy is pivotal in safeguarding IPR within the digital realm. As new and emerging technologies are embraced, cyber threats are evolving in sophistication, leading to a substantial increase in cybercrime. India has formulated a National Cybersecurity Policy to institute a robust regulatory framework aimed at securing IPR from cyber threats.

### CONCLUSION AND RECOMMENDATIONS:

**Conclusion:** The Intellectual Property Rights (IPR) and digital piracy landscape in India presents a multifaceted scenario, marked by challenges and opportunities. The digital age has brought unprecedented technological advances, affecting the creation, distribution, and protection of intellectual property. However, this era is also marked by a rise in digital piracy, which poses a significant threat to the rights of creators and the economic structure of industries. One of the key lessons learned from exploring this topic is the important role that legal and enforcement mechanisms play in combating digital piracy. While India has made progress in developing policies like the National Intellectual Property Rights Policy, there is still a need to continuously adapt to the changing landscape. Court intervention, exemplified by cases such as UTV Software Communications Ltd. against 1337X.TO and others, highlighting the dynamic nature of the legal responses needed to effectively combat online piracy.

### Recommendation:

1. Strengthen the legal framework: Regularly review and update current intellectual property laws to align with technological advances and good practices most globally.
2. Strengthened enforcement actions: Collaboration between law enforcement agencies, industry stakeholders, and cybersecurity entities to strengthen the fight against viruses and digital copyright infringement.
3. Increasing awareness and education: Integrating intellectual property rights education into the school curriculum to raise awareness of the younger generation about the importance of intellectual property rights and respecting intellectual property rights.

4. International Collaboration: Active participation in international forums and collaborations to share best practices, intelligence, and strategies for combating cross-border digital piracy. Harmonization of intellectual property protection standards to facilitate seamless global cooperation.

5. Technology solutions: Explore and deploy technology solutions, such as digital watermarks, to track and protect digital content from unauthorized use. Research and development initiatives aimed at creating innovative tools that can help identify and prevent digital piracy.

In short, addressing the complex interaction between intellectual property rights and digital piracy in India requires a comprehensive approach that includes collaborative legal, technological, educational, and international.

Continuous efforts, adaptability, and a proactive stance are essential to protect creators' rights and foster a thriving digital ecosystem.

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